

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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UNDER 37 CFR 1.181

In order to establish that papers were not received, a petition under 37 CFR 1.181 with a proper showing is required. As set forth in the Official Gazette at 1156 OG 53, the petition must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in practitioner's statement). No petition fee is required.

Items (1) and (2) are satisfied by the practitioner's statement that the Office action was not received by the practitioner and his statement attesting that a search of the file jacket and docket records indicated that the Office action was not received.

With regard to Item (3), applicant submitted a copy of the law firm's 12 June 1999 "docket record where the non-received Office Action would have been entered had it been received and docketed". In addition, a statement from Lynn Weidenfeller, who is the person that would have docketed the Office Action if it had been received, was submitted.

The docket record required is the record showing all responses docketed for the date a response was due (12 June 1999 in this case) indicating that there was no record of a response for the present application being due on that date. This docket record was attached to and referenced in practitioner's statement and indicates that the Notification of Missing Requirements was not received. Thus, applicant has provided the proper showing necessary to withdraw the holding of abandonment and the petition may be properly granted at this time.

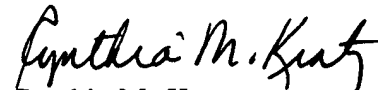
Further, on 01 May 2000, along with his petition under 37 CFR 1.181, applicant filed a declaration executed by the inventors and the \$130 surcharge for filing the declaration after the thirty month period. This is considered a response to the Notification of Missing Requirements.

CONCLUSION

For the reasons presented above, the Petition under 37 CFR 1.181 is **GRANTED**.

The 31 March 2000 Notification of Abandonment (Form PCT/DO/EO/909) is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is 01 May 2000.



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